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ELECTION COMMISSION, INDIA

NOTIFICATION

New Delhi, the 23rd April 1957

S.R.O. 1359.—In pursuance of the provisions of sub-section (1) of section 86 of the Representation of the People Act, 1951, the Election Commission hereby publishes a copy of the Election Petition No. 5 of 1957, presented to the Commission on the 3rd April, 1957 under section 81 of the said Act, by Shri Lekhram, son of Dadoolal, of Mouza Dongar—Parasia, P.C. No. 70 R.I.C., Parasia, Tahsil and District Chindwara calling in question the election to the House of the People from the Chindwara constituency of that House of Shri Bhikulal, son of Shri Lakhmichand Chandak Cultivator of Paradsinga, Tahsil Saunsar, District Chindwara.

ELECTION PETITION No. 5 of 1957

Received by Registered post this the third day of April one thousand nine hundred and fiftyseven.

(Sd.) DIN DAYAL, Under Secy.
Election Commission, India.

To

The Election Commission, India
New Delhi

Petitioner:—

Shri Lekhram S/o Dadoolal, aged about 46 years of Mouza Dongar-Parasia P.C. No. 70 R.I.C. Parasia Tahsil and District Chindwara.

Respondents:—

1. Shri Bhikulal S/o Lakhmichand Chandak, aged about 48 years, Cultivator of Paradsinga, Tahsil Saunsar, District Chindwara.
2. Shri Sheonarayan S/o Deokisan, aged about 45 years, Cultivator of Paradsinga, Tahsil Saunsar, District Chindwara.
3. Shri Gourishankar S/o Manoolal, aged 25 years, General merchant, 246 Kamath ward Gadarwada District Narsingpur.
4. Diwan Najafalikhan S/o Subjealikhan, aged about 40 years, Cultivator of Seoni, District Seoni.
5. Shri Krishnarao Ganesh Rekhade, Advocate Ex-M.L.A., aged about 52 years, Chindwara.
6. Shri Ramakant Kesheorao Haldulkar, aged about 35 years, Public worker Chitnawisganj, Chindwara, Cultivator.
7. Shri Ramchandra Ambadas Joshi, aged about 28 years, Budhwarpeth, Poona-2.

8. Shri Anandilal Marotiprasad, aged about 35 years, Cultivator, Chapara tahsil Lakhnadowa, District Seoni.
9. Lalsingh S/o Mehendrasingh Gond, aged about 45 years, Village Guddum, P.O. Tamia, District Chindwara.
10. Sangramsha S/o Ranbhirsha Gond, aged about 40 years, Cultivator of village Bamhani, District Chindwara.
11. Shri Narayanrao Maniram Wadiwa Gond, aged about 45 years, Cultivator of Chindwara.
12. Shri Shanti Swroop Sharma S/o Shri Kartaram Sharma, aged about 37 years, Auditor with Pench Valley Coal Company Ltd., and Amalgamated Coal Fields Ltd. resident of Parasia Tahsil and District Chindwara.

Election petition under sections 80 and 81 of the Representation of the People Act, 1951, calling in question the election of Shri Bhikulal Lakhmichand Chandak from Chindwara Parliamentary Constituency, in Madhya Pradesh, result of which election was declared on 24th March, 1957.

The Petitioner begs to apply as under:—

1. That the Petitioner is an elector entered at No. 1338 in Mouza Dongar-Parasia P.C. No. 70 R.I.C. Parasia, in the electoral Roll of Parasia, in the common roll for Legislative Assembly and of Parliamentary Constituencies of Chindwara District. He is entitled to file this petition being a voter in the Chindwara Parliamentary Constituency for which Respondent No. 1 has been declared elected on 24th March, 1957 to the House of the People.

2. That the election to Chindwara Parliamentary Constituency was notified to be held on 25th February, 1957 and following days; this is a double member constituency, one seat being reserved for Scheduled Tribe Representative. That Respondents 9 to 11 filed their nomination papers for reserved seat while Respondents 1 to 8 and 12 filed their nomination papers for general seat, but the election of general and reserved seat was simultaneously held being one common and indivisible election, at which self-same voters were given the right to cast two votes with a condition that both the votes could not be cast in favour of general seat candidate or scheduled tribe seat candidate.

3. Respondents 1 to 8 were declared duly nominated candidates along with Respondent No. 12, before the same Returning Officer took up the work of Scrutiny of Parasia Legislative Assembly Constituency; Respondents 2, 4 and 6 withdrew their candidature and hence did not have their ballot boxes in polling booths on the dates of election. Respondents 9 to 11 were declared duly nominated candidates.

4. Though there was no objection to the nomination paper of Respondent No. 12, either originally nor any application for review on behalf of any of the Respondents, Returning Officer who had completed the scrutiny of Parliamentary Nomination papers of Chindwara Constituency by 1 P.M. on 1st February, 1957 took up the nomination paper of Respondent No. 12 and hour after the close of scrutiny of Parasia Assembly Constituency i.e. at about 5 P.M. and changed his decision of "declared valid" into "declared invalid". As a result of this decision of the Returning Officer, Respondent No. 12 was not allowed any symbol and no ballot boxes were provided for him on the dates of elections which ranged between 25th February, 1957 to 12th March, 1957.

5. The nomination paper of Respondent No. 12 was improperly rejected by the Returning Officer because of the following reasons in particulars.

- (a) The Returning Officer had no jurisdiction to review his own decision of changing "declared valid" into "declared invalid".
- (b) That the Returning Officer had no jurisdiction to review the order without giving an hearing to Respondent No. 12, which could not be done at all.
- (c) That on the face of the allegations, the Returning Officer failed to notice that there was no allegation made even that any of the Limited Companies had any share Capital, much less to the extent of "not less than 25 per cent" of the Central Government. The Returning Officer did not act in good faith and with due care and attention. Even the allegations as made did not affect the right to stand for the Parliamentary seat, as far as Respondent No. 12 is concerned.

6. Even otherwise, the objection which was filed against Respondent No. 12 as a candidate for Parasia Legislative Assembly Constituency of Madhya Pradesh Legislative Assembly, was in substance that he held an office of profit because; the Shaw Wallace Company Ltd. are the Managing Agents of the Pench Valley Coal Company Ltd., Amalgamated Coal Fields Ltd., and Rewa Coal Fields Ltd. In the Rewa Coal Fields, the State Government owns more than 25 P.C. shares. Two of the Ministers were on the Board of Directors of this Company. Shri S. S. Sharma, a candidate from Parasia Legislative Assembly Constituency, is an employee of Shaw Wallace Company Ltd.; he had represented Shaw Wallace and Co. Ltd. before the Industrial Tribunal at Dhanbad, he had also audited the accounts of Rewa Coal Fields Ltd. He is thus holding an office of profit under the Government. That objection raised against the candidature of Respondent No. 12 before the Returning Officer of Parasia Assembly Constituency is filed as Annexure (A) and the order of the Returning Officer is filed as Annexure (D) as far as the rejection of nomination form for Assembly seat is concerned. The statement of Respondent No. 12 in reply to the objection is filed as Annexure (C). Affidavit of Kashiprasad in Hindi is Annexure (B) and its translation is filed as Annexure (B).

7. Against the rejection of the nomination paper by the Returning Officer, Respondent No. 12 filed a writ petition under Article 226 of the Constitution in the High Court of Judicature Madhya Pradesh at Jabulpore, and the High Court remarked that they should not be understood as agreeing with the reasons of Returning Officer; but the petition was dismissed on the sole ground that the jurisdiction of High Court was taken away by Article 329(b) of the Constitution of India. The order will be filed as Annexure (E) as soon as copy is obtained.

8. It is denied that the nomination paper of Respondent No. 12 was in any way defective or liable to be rejected on the ground of alleged disqualification of Respondent No. 12. It is denied that Respondent No. 12 was in the employ of Rewa Coal Fields Ltd., or even Shaw Wallace Company Ltd., it is denied that any of the Companies with reference to which objection was raised had either the share capital of Madhya Pradesh Government or the Central Government much less to the extent of "not less than 25 P.C." Respondent No. 12 is working as an auditor of Pench Valley Coal Company Ltd. and Amalgamated Coal Fields Ltd., both of which companies are under the managing agency of Shaw Wallace and Company Ltd. It is incidental that Rewa Coal Fields Ltd., are also under the managing agency of Shaw Wallace Company Ltd. By appearing in cases for Shaw Wallace Company Ltd., before Industrial Tribunal, which appearance could be put by any employee of the units of association of companies, Respondent No. 12 did not become an employee of Rewa Coal Fields Ltd., or even Shaw Wallace company Ltd.

9. (a) The Nomination paper of Respondent No. 12 was illegally and improperly rejected and he was entitled to stand for election for the very constituency for which Respondent No. 1 has been declared elected; as a result of this improper rejection of his nomination paper, the entire election result which was declared on 24th March, 1957, declaring Respondent No. 1 as duly elected member of Chindwara Parliamentary Constituency, is rendered void and the election of Respondent No. 1 is liable to be set aside.

(b) That the nomination paper of Respondent No. 3 Gourishankar was liable to be rejected on the ground of his being less than 15 years on the date of nomination and scrutiny.

10. That further the result of election has been materially affected by this improper rejection of nomination paper of Respondent No. 12, who has been sitting member of Assembly from Parasia Legislative Assembly Constituency of Madhya Pradesh and also President of Janapada Sabha Chindwara, which includes the area of this Parliamentary Constituency to a large extent within its territorial jurisdiction.

11. That the election of Chindwara Parliamentary Constituency in Madhya Pradesh was on 25th February, 1957, and following days as already stated and the result of election was declared on 24th March, 1957; as a result of counting the Returning Officer declared that Respondent No. 1 got 1,36,931 votes, and respondents III, V, VIII, and VII got 66,045,38840,30249 and 31257 respectively. Respondents 9, 10, and 11 were declared to have got 32564, 1, 21, 652 and 51729, respectively. Respondents 1 and 11 were declared duly elected members of House of People on behalf of Chindwara Parliamentary Constituency.

12. That the election of Respondent No. 1 has not been a free election and is void in as much as many corrupt and illegal practices including personation were committed by Respondent No. 1 or his election agents or by other persons with the consent of Respondent No. 1 or his election agents. They included obtaining assistance of persons in the service of Government. The expenses incurred by Respondent No. 1 for his election exceeded the maximum limit permissible by law. The Respondent No. 5 worked in collaboration with Shrimati Jankidevi Sharma whose workers without any return were interested in the defeat of congress candidate both for the Parliamentary seat of Chindwara Constituency and also for the Parasia Legislative Assembly Constituency Seat in Chindwara District. The corrupt and illegal practices in matter of Parasia Legislative Assembly Constituency in Chindwara District were common with regard to the election of Parliamentary Seat for which Respondent No. 1 was declared elected. The lists of such corrupt and illegal practices are given separately which may be treated as part of this petition.

13. As a result of these corrupt and illegal practices, the result of election of Respondent No. 1 has been materially affected and the majority which could have been secured by other candidates has been tilted in favour of Respondent No. 1. The election of Respondent No 1 is thus liable to be declared void and set aside. The same is liable to be set aside because the corrupt and illegal practices were committed by Respondent No. 1 and his agents and other persons with his connivance. But for these corrupt practices Respondent No. 1 would not have been declared elected.

14. The Petitioner is filing true copies of the documents and other papers and he has applied for certified copies of documents and the same would be filed as soon as they are available; the Petitioner also relies on the records before the Returning Officer Chindwara regarding election hereby challenged and also of the records of Parasia Legislative Assembly before the Returning Officer regarding scrutiny of nomination papers.

15. The Petitioner is filing separately an election Petition for setting aside the election of the successful candidate for the Parasia Legislative Assembly Constituency in Chindwara District of Madhya Pradesh; the questions of facts and law are mostly common. The documentary evidence is likely to be common in both the petitions.

16. Equally the oral evidence, unless the cases are decided on documentary evidence, and on preliminary issues, is also likely to be common.

17. Petitioner does not claim the relief of setting aside the election of Respondent No. 11 unless the Tribunal thinks that it has to be done by setting aside his election along with that of Respondent No. 1.

18. Respondent 2 to 12 are added as *proforma* respondents and petitioner does not claim any relief against them.

That the Petitioner has deposited the sum of Rs. 1,000 in treasury of Government, at Chindwara in favour of Secretary Election Commission India New Delhi, as required by Law and the treasury receipt is attached herewith.

It is therefore prayed that the election of Respondent No. 1 be set aside, and be declared void. That the costs of Petition be saddled on Respondent No. 1.

The 27th March 1957.

(Sd.) LEKHRAM DADOOLAL,

Council for Petitioner.

I, Lekhrum Dadoolal do hereby declare that the contents of paras 1, 2, 8, to 12, 14, 15, 16, 17, & 18 are true to my personal knowledge and the contents of paras 3 to 8 and 13 are true to the information received and believed to be true. Signed and verified this day at Nagpur dated the 27th March, 1957.

The 27th March, 1957.

(Sd.) LEKHRAM DADOOLAL,

*List of Corrupt and Illegal Practices.***(I) Intimidation**

(i) Baldev Prasad Sharma, Vice President of the INTUC threatened Shri Ramkishan Sharma of South Panara at South Panara Colliery on date 23rd January, 1957 at 4-0 p.m. that if Ramkishan will work for Mrs. Sharma i.e., against the Congress candidate he will throw him in the well. This was spoken by him in presence of Ramkishan in a public place before a good gathering. Due to this threat all the other labour in that colliery was scared. Ramkishan Sharma was working for Smt. Janki Devi Sharma. A report to this effect was made in the Police Station, Jamai, same day.

(ii) Har Prashad, Supervisor of East Dongar Chickli colliery who was working for Mrs. Sharma for the furtherance of her prospects in election, was seriously assaulted on 24th February, 1957 at 3-0 p.m. at Parasia by one Amarlal Ahir, of Parasia working for the Congress candidate Shri K. P. Verma, while Shri Har Prasad was proceeding to village Jhure for election purposes. A report to this effect was made at Parasia Police Station on the very day.

(iii) In the 2nd week of February, 1957, Baldeo Prasad Sharma, Vice-President of the INTUC, Chandametta threatened Narendra Singh, Attendance clerk No. 5 Incline Chandametta for dire consequences if he will work against the Congress for furtherance of election prospects of Mrs. Sharma.

(iv) In the 2nd week of February, 1957, Bhagwandas Soni of Chandametta who was a Polling Agent of Mrs. Sharma was several times threatened by Baldeo Prasad Sharma working for the Congress candidate Kashi Prasad Verma for dire consequences, for which a report was made in the Police Station, Parasia.

(v) One Ramkhilawan of village Moredongri who is a terror for the villagers in the Moredongri area came to Mujawar village on 1st March, 1957 at about 10-0 a.m. and called Tekchand, a cultivator of that village who was working for the furtherance of election prospects of Mrs. Sharma and badly threatened him in front of other villagers. Ramkhilawan told him in presence of others that if he will work against the Congress for Mrs. Sharma, he will hang him on the tree and will kill him. He also threatened other voters of the same village that if any one will vote against the Congress, he will shoot them, and will beat them with shoes. All this happened at Jain Patel's house. All the villagers were much scared and were greatly terrorised. Consequently most of the votes of that village went to the Congress.

(vi) Ramkhilawan of Moredongri sent a letter addressed to Tekchand of Mujawar on dated 26th February, 1957, through one Amarlal Kotwar of Mujawar. The contents of the letter were that he would forge the dues of price of grass of Rs. 12/4/- payable by the latter to former and that he should not work for Respondent No. 2 and work for Respondent No. 1.

(vii) Baliram son of Hari Bhoier of Umreth threatened the villagers of Kumhari Mohalla that if they will not vote in the Ballot Box with a symbol of "Two bullocks with yoke on" which is of the Government, they will not be allowed to attend Chandametta Sunday market. This is one of the biggest markets held on Sundays at Chandametta where people from all villages come for sale and purchase purposes. After terrorising the voters, he took their thumb impressions and signatures on a pledge that they will vote in the ballot box with symbol of "Two bullocks with yoke on".

(viii) Baliram Bhoier of Umreth Dhana was threatened by Bhim Baldeo Prasad Sharma, Jabbar and Kalloo of Chandametta and 10 others that if he will not work for the Government Ballot Box with symbol of "Two Bullocks with yoke on" he will be dealt with very strongly. He was thus forced to sign pledge that he will vote and work for their candidate in the election. Next day his house was looted by dacoits—so-called. Consequently there was great panic in the whole area and the villagers were much scared.

(ix) Baldeo Prasad Sharma, Shamlal and Bahadur Singh workers of the Congress candidate threatened one Phandi ex-Onsetter of Eklehra colliery that if he will work for anybody else other than the Congress, they will kill him. Due to fear he did not make any report to the Police and could not work for the candidate against Congress.

(x) One Ramnarayan Singh of Barkui, a worker of Shri K. P. Verma, a Congress candidate, pelted stones in front of Raj Talkies, Barkui on 23rd February, 1957 at about 11 p.m. on Mr. S. S. Sharma, M.L.A.'s. Land Rover.

husband of Smt. Janki Devi Sharma, an Independent candidate in the election, when he was coming from Nawegaon after addressing a public meeting, as a result of which the window glass of the Land Rover was broken causing injury to Mr. S. S. Sharma and two other persons in the Land Rover. A report to this effect was made in the Police Station, Parawia. This act of the Congress worker terrorised other workers of Smt. Janki Devi Sharma and therefore they could not work properly for furtherance of prospects of her election.

(xi) On date 2nd May, 1957 when the polling was in progress, Baldeo Prasad Sharma, a worker of the Congress candidate K. P. Verma reached Rawanwara colliery and threatened one Sukhdaiya Bai of Rawanwara at about 10 A.M. that if she will work for Mrs. Sharma he will kill her. A report to this effect was made to the S. I. Parasia.

(xii) On date 21st February, 1957 Baldeo Prasad Sharma a worker of the Congress candidate threatened and attempted to assault one Bhowlal Soni of village Umreth for the reason that he was working against the Congress.

(xiii) (a) The Congress candidate K. P. Verma engaged most notorious Goondas of the district to work for him in the furtherance of his election prospects who terrorised the voters everywhere in the constituency and threatened them for dire consequences if they will not vote for the Congress candidate. They were propagating that they had been deputed by the Government to secure votes for the Government. These goonda elements viz., Bahadur Singh of Parasia, Baldeo Prasad Sharma, Bhim brother of Baldeo Prasad of Chandametta and Jhalpa Singh were extened several times under the Goondas' Act by the State Government in 1955-56, since they were found terror and menace to the lawful and peaceful citizens of the district of Chandwara, especially of Parasia constituency, as a result of which the voters were very much scared and to save their lives and property cast their votes in the ballot boxes with symbol of "Two bullocks with yoke on" which they thought is of the Government who is forcing them to vote through these terrorisers.

(xiii) (b) Baldeo Prasad Sharma a ring leader of the Goonda Gang and the Vice-President of INTUC visited village Chikhar in R.I. Circle Jamal on 21st February, 1957 and went to the house of Ghasiram Patel a prominent person in that area and threatened his son of the dire consequences if they will work against the Congress.

(xiv) Baldeo Prasad of Chandametta, Bahadur Singh of Parasia and Harsukh of Datla West workers of the Congress candidate badly threatened Shri Iswar Singh Ulke, an Independent candidate for the Scheduled Tribe Seat that they will kill him after the election since he was contesting against the Congress, unless he supported Congress candidate.

(xv) Baldeo Prasad Sharma and Bahadur Singh worker of Congress candidate badly threatened Narainrao Overman a worker of Smt. Janki Devi Sharma at Rakhikol on 23rd February, 1957, of dire consequences if he will continue working against the Congress, as a result of which he became nervous and could not function properly.

(xvi) On 17th February, 1957, Ramkhilawan of Moredongri visited Mujawar village and collected all the persons of the village and told them that he was not contesting the seat and that he had joined the party with the symbol of "Two bullocks with yoke on" and that everyone must follow him and vote in the ballot box of the Congress. He further said that he has got the authority to get the ballot box as opened at each polling booth and that whosoever would not vote in the box with the symbol of "Two bullocks with yoke on", he will strongly deal with him. He thus forced the people to give pledge that they will vote to the Government in the "Two bullocks with yoke on" ballot box. Consequently the whole village voted against their wish for the Congress.

(xvii) Chotelal and Pooran Singh workers at Jamal of Smt. Janki Devi Sharma were threatened by Ramkhilawan and were told not to live in the village of Moredongri otherwise he will get them killed. These two workers were deputed by Smt. Janki Devi Sharma to work for her in that area. Consequently they could not work for her due to fear of Ramkhilawan.

(xviii) Ramkhilawan disturbed the public meeting which was being addressed by Mr. Sharma for furtherance of election prospects of Smt. Janki Devi Sharma on date 22nd February, 1957 at 7-0 P.M., at Moredongri and did not permit him to continue his speech there and threatened to kill him. The villagers were witnessing this incident and were very much scared.

(xix) Shri Ramkhilawan told the voters who had to vote at Moredongri Polling Booth No. 70 that they must first come to his house before proceeding to vote and if anyone will not come to his house, he will take it as if that voter will vote against the Congress, and that he will see that the person will not go back safe home immediately. Consequently all the voters used to collect first at his house and then from there go to the Polling Booth closely and had to vote for the Congress against their conscience due to fear.

(xx) On 28th February, 1957, Baldeo Parsad, Bahadur Singh and some other ten workers of the Congress candidate K. P. Verma came in front of Shri Tulsi Ram's house at Batla West Colliery who was an active worker of Smt. Janki Devi Sharma, and threatened to kill him. They spoke on the loud speaker so that other people living there should also be scared.

(xxi) On 26th February, 1957, when Shri, Phool Singh worker of Smt. Janki Devi was coming from Jamania village, just near village Malni, Jaswant Singh and Kham Baboo of Nawegaon who were working for the Congress Candidate K. P. Verma, threatened him for dire consequences. He came and reported the matter to Shri. Champalal and Shri. Majumdar at Nawegaon.

(II) Procuring help of Government servants in furtherance of prospects of Elections.

(i) Mrs. Sita Parmanand, a Member of the Rajya Sabha was always carrying with her an armed force consisting of three S. A. F. constables during the election campaign from 15-2-1957 till 1-3-1957. Wherever she went, they accompanied her and used to come out of the car when she used to address a meeting. They were, thus, shown to the public to prove that she was working to secure votes for the Government in the Government box with a symbol of "Two bullocks with yoke on". She used to hold meetings at central places in the villages where Patels, Mukaddams of big villages were being collected and she used to influence them by showing the constables in uniform to impress upon them that she was working for the Government. She held meetings of influential Patels at Rohna Kanhergaon, Palatwara and Souri etc. She also threatened the Patels that if they will not vote for the Government they will be strongly dealt with by the Government and will be put into jails, and can also be fined up to Rs. 500/-.

(ii) The Chief Minister of Madhya Pradesh Dr. Kailashnath Katju visited Parasia on the 19th February, 1957 and addressed public meeting at Chandametta. Entire Government machinery at the district level including the D.C., D.S.P. and a large number of Police force were utilised to bring pressure upon the public to vote for the Congress. The D.C. issued tour programme officially to all Mine Owners in the Pench Coalfield and to the influential public workers and Patels of the Parasia Constituency about the visit of the Chief Minister which clearly indicates that a propaganda for his visit was made by the Government Officials to make his election campaign successful. Expenses were incurred by Government for payment of travelling allowances etc. to Government officials for visit to Chandametta on these occasions.

Lunch was arranged for the Chief Minister at Newton Chickly Colliery where all the employers were invited and were thus influenced by the Chief Minister, as a result of which the employees and their officials had to work for the Congress candidate even against their wishes.

(iii) Shrimati Laxmi Menon, a Parliamentary Secretary to the Prime Minister of India visited Chandametta and Junnerdeo on Sunday the 24th February, 1957 and addressed public meetings at both the places. She gave a false temptation to the workers that their wages will be further increased if they will vote for the Congress.

Government machinery was utilised to make her tour programme successful.

(iv) There were 5 Polling Booths at Junnerdeo at Junnerdeo the Junnerdeo Police S.I. stopped the workers of Smt. Janki Devi Sharma from making election propaganda with effect from 28th February, 1957 with a view to better the prospects of election of the Congress candidate although by law the propaganda could continue till the 1st March, 1957, midnight; some police did, however, permit election propaganda in favour of Respondent No. 1. Due to this action of the Police, no work was done by the workers of Smt. Janki Devi Sharma and the Congress candidate got the advantage out of that.

(III) False Propaganda

(i) On 26th February, 1957 at Palatwara at the time of Tuesday market before a good gathering of the villagers, Ramnarain Singh of Barkul a worker of the Congress candidate gave speech in front of the school, alleging that Mr. Sharma, M.L.A., and the Chairman of the Janapada Sabha has used all the money of Janapada for his personal purposes which was meant for constructing wells, roads, and Schools. Immediately a report was made to the S.I. Police on the spot.

(ii) The Congress candidate K. P. Verma and his workers including Anayat Mohd. made a false propaganda in the Mohammadan community of the Parasia Constituency that Mr. S. S. Sharma, M.L.A. husband of Smt. Janaki Devi and Independent candidate, in the election, did not allow the celebration of "URS" at Chandametta and that he is an anti-Mohammadan. If all Mohammadans will vote for the Congress candidate they will arrange for the celebration of "URS". Consequently, all Mohammadans went against Mrs. Sharma and voted for the Congress. "URS" was not allowed to be held by the District authorities because circumstances were such that breach of peace was apprehended. It was the time when there was communal riots at Jabalpure.

(iii) The Congress candidate and his workers such as Ram Narain Singh, Mr. Parmanand, Baldev Parshad Sharma and Sham Lal made false propaganda in the area that Mr. Sharma's house has been searched by the Police and that one unlicensed Revolver has been seized and that he has been released on a bail of Rs. 5,000/-. This propaganda was started from the 24th February, 1957 to disrespect him and to remove his influence on the area and to cause hatred in the minds of the people against him, so that no votes be obtained for Smt. Janki Devi Sharma, and this badly effected the election prospects of Smt. Janki Devi Sharma. This propaganda was also published by them in Nav Bharat later on.

(iv) The Congress candidate and all his workers were propagating amongst the illiterate villagers that the boxes with symbol "Two bullocks with yoke on" were pertaining to the Government and if anyone will not vote in those boxes, they will be punished and imprisoned by the Government. Consequently, the innocent and illiterate villagers were very much scared, and they voted in the Congress boxes under undue influence.

(v) Mrs. Parmanand, M.P. made false propaganda in the Coalfield amongst the Coal Mines workers that she has come from Pt. Nehru, the Prime Minister of India and she had arranged that issue of concessional foodgrains will be again re-introduced for the workers which has been stopped by the Lower and Appellate Tribunal Awards, if the workers will vote for the Congress.

(IV) Bribery

(i) Voters were served with tea, pan and beeries on the polling day at Umreth by Bhim, a worker of the Congress candidate for which a bill for Rs. 91/- was paid to one Thakur Parshad Jain Bania of Umreth for the Kirana materials purchased for this purpose. Rupees 38/- were paid to Baboolal Jain of Umreth for the tea served to the voters.

(ii) The Congress candidate arranged supply of liquor to the voters of Umreth from Aziz, Liquor contractor's shop at Umreth through his worker Bhim, a notorious goonda of the area and the bill was paid through him.

(iii) Three tins of liquor sent by Bahadur Singh, another notorious goonda of Parasia and a worker of the Congress candidate, to one Ghunti of Newton Chickli Kalan and thus influenced them to vote for the Congress at polling booths No. 20.

(iv) Shri Ramkhilawan of Moredongri had ordered the voters scheduled to vote at polling booths No. 70 Moredongri that they should first come to his house before going to cast their votes. Accordingly the voters used to go to his house where arrangements of serving liquor were made by him and the voters were served with free liquor before casting votes.

(v) At polling Booth No. 6 Bhamori one Piyare Ahir, a worker of the Congress Candidate supplied liquor to the voters on the polling day free of cost and thus influenced them to vote for the Congress.

(vi) Mrs. Parmanand visited the village named Paonar and gave promise to the villagers that she will arrange to build a new building for the School there, if all the villages will vote for the Congress. Consequently sweeping votes were obtained by the Congress Candidate from that Centre.

(vii) Mrs. Parmanand promised the mine labourers that she will get the concessional grain re-introduced if they will vote for the Congress.

(viii) Mrs. Parmanand and some other workers of Congress candidate such as Baldeo Prasad Sharma, Bahadur Singh and Shamlal promised the cultivators that if they will vote for the Congress and the Government, they will get them sufficient Taccavi loans and she will also arrange to get remission of land revenue and Taccavi instalments. She said that she has just come from Delhi from the Government of India and, therefore, she is giving this promise, fully empowered on behalf of the Prime Minister of India.

(V) Invalid Votes Accepted

(i) There were three Polling Booths at Chickli Kalan, Polling Booths Nos. 19, 20 and 21 were meant for voters from Nos. 1 to 3,200 who were to vote according to the voters list, but only numbers upto 3,000 voters were allowed to vote there and the remaining 200 were not allowed to cast their votes and were advised to vote at East Dongal Chickli which was two miles away from there, but a voter named Tularam serial No. 3119 was allowed to vote at Polling Booth No. 21, whereas the other voters from serial No. 3001 to 3200 were not allowed to vote there.

(ii) At Bhamori, Polling Booth No. 6 about 20 votes were found on the Polling Box of the Congress Candidate K. P. Verma which the Presiding Officer polled himself in the Congress Ballot Box in presence of the election agents of the three candidates of the general seats. A written objection was made by the Election Agent of Smt. Janki Devi Sharma, and before giving any written objection a verbal objection was also raised not to throw those votes in the Ballot Box of the Congress candidate, since they were found lying on the Ballot Box and under Law should be invalid but to no effect.

At Polling Booth No. 56 Jamia, the Presiding Officer used to get into the Polling Booth alone and used to bring the votes lying on the Ballot-Boxes. This was objected to by Dalchand Rasela, a Polling Booth Agent for Smt. Janki Devi Sharma. His objection was that the Presiding Officer should not go alone into the Polling Booth but his objection was not entertained and he carried on visiting the Polling Booth alone.

Booth No. 56 Jamia, serial No. 184 Sarswati w/o Sevak is shown in the supplementary voter list as deleted but she was allowed to cast her vote. Objection was taken by D. C. Rasela but was not entertained. There are several such instances of irregularities in all five Booths at Jamia.

Similarly serial No. 351 Mujla w/o Narish Chand deleted from the list but allowed to vote.

(VI) Personation

(i) At Polling Booth No. 11, Chandametta one Mansingh son of Gambhirsingh Rajpur came and voted on the name of Hamir Singh (Ballot Paper No. 133), in spite of objection, he was identified by Congress worker.

(VII) Withdrawal of Candidate and Inducement to them

(i) Shri Ram Khilawan of Moredongri filed his nomination paper but was made to withdraw his nomination by Mrs. Sita Parmanand and other Congress leaders by giving him an inducement that he will be made Chairman of the Janpada Sabha, Chhindwara, after removing Shri S. S. Sharma M.L.A.

(ii) Thakur Onkar Singh who also had filed nomination was made to withdraw by threats of disciplinary action against him and externment from Congress.

(VII) Huge Expenditure

The visit of Dr. Kailash Nath Katju and Laxmi Menon and 500 workers.

(IX) Providing Conveyance for voters

A truck No. MPA 700 was provided through Shri Charan Dass Sharma of Junnordeo to carry the voters from village Sukri to Palachauri polling booth No. 61 voters were brought in two trips.

(X) Propaganda within 100 yards of the Polling Booth.

(i) Canvassing was made by the workers of the Congress candidate within 100 yards at Newton Chickli, Umreth, Chandametta, Barkui, Parasia, Eklehra,

Datla West, Rewanwara, Dighawani and Junnordeo Polling Booths. In spite of the objection taken by the polling agents, the Police and the Presiding Officers took no action.

(ii) At polling booth No. 11 (Chandametta) it was observed that within 100 yards, one very big poster painted on a wooden frame showing the Congress candidate symbol of two bullocks with yoke on duly made attractive and surroundings decorated to give a festive look was being displayed at the INTUC office. This was objected to by Shri S. L. Verma, agent of Shrimati Janki Devi. It was not removed from the site inspite of the Presiding Officer's order.

(iii) On 2nd March, 1957, at about 3 P.M. Mrs. Sita Parmanand came to polling booth at Dongaria. She remained inside the booth area for more than ten minutes and was holding a meeting with more than 100 persons. She was canvassing for the Congress candidate, when Mr. Imritlal Polling Agent of Shrimati J. Sharma took objection. The Presiding Officer asked her to leave the place but she in turn started abusing the officer on duty. Finally, the Officer had to take shelter of law when she had to leave.

(iv) On 2nd March, 1957, Jamania Polling booth (R. I. Jamal) Jaswant Singh, Influential Contractor Congress-man, and Bahadur Singh remained inside the Polling Booth for more than two hours from 2 P.M. and they were talking and canvassing to the voters in presence of the Presiding Officer. They took tea with the Presiding Officer. Shri Phool Singh, Agent, of Shrimati Janki Devi took objection, but was not entertained.

(XI) Secrecy in voting

In all the 121 Polling booths numbers of the ballot papers were being recorded in the electoral roll against the names of the voters.

Shri S. G. Vyas of Parasia who went to cast his vote at Polling Booth No. 25 refused to cast his vote when he found that his ballot paper number had been recorded against his name in the electoral roll and hence Ballot Paper was returned by him.

That the List of corrupt and illegal practices be treated, as set forth above, as part of the petition, supplementing the allegations in the main petition by way of better particulars.

(Sd.) LEKHRAM DADOOLAL -

The 27th March, 1957.

1. Lekhram Dadoolal do hereby declare that the contents of paragraphs I to XI of this schedule called List are true to the information received and believed to be true. Signed and verified this day at Nagpur on the 27th March, 1957.

Sd/- LEKHRAM DADOOLAL,
27-3-1957.

TO

The Election Commission

India (New Delhi).

Petitioner:—Shri Lekhram s/o Dadoolal of Parasia

Versus.

Respondents:—1. Shri Bhikulal Lakhmichand Chandak and others.

List of Documents filed by the Petitioner

S. No.	Description of Documents	Date	Original or copy
1.	Copy of Statement on oath of Shri G.P. Shrivastava Pleader	1-2-57	Copy Annexure A
2.	Copy of Affidavit of Kashiprasad Kanhyalal	1-2-57	Annexure B
3.	Copy of affidavit (Translation) in English of Annexure B	1-2-57	Annexure B
4.	Copy of Statement on oath of Shri Shanti Saroop Sharma	1-2-57	Annexure C
5.	Copy of order passed by Shri B. R. Nandlal Returning Officer (D.C. Chhindwara) Madhya Pradesh	1-2-57	Annexure D
6.	Challan of Rs. 1000/- deposited by Shri Lekhram of Parasia Challan No. 104 dated 25-3-1957	25-3-57	Original

The 27th March, 1957.

(Sd.) B. R. MANDLEKAR,
Counsel for the Petitioner.

ANNEXURE A

Copy of Statement of Shri G. P. Shrivastava, Pleader a candidate from the Parasia Legislative Assembly constituency recorded by the Returning Officer, Madhya Pradesh, Legislative Assembly constituency Parasia in connection with the scrutiny of Nomination paper of Shri Shanti Saroop Sharma of Parasia.

On S. A.

The Shaw Wallace Co. Ltd. are the Managing Agents of the (1) Pench Valley Coal Co. Ltd. (2) Amalgamated Coal Fields Ltd. (3) the Rewa Coal Fields Ltd. in the Rewa Coal Fields, the State Government owns more than twenty five percent shares. Two of the Ministers were on the Board of Directors of this Co. Shri S. S. Sharma is an employee of the Shaw Wallace Co. Ltd. by Shri S. S. Sharma; I mean Shri Shanti Saroop Sharma, a candidate from Parasia Legislative Assembly constituency. Shri Sharam has represented Shaw Wallace and Co. Ltd. before the Government of India Industrial Tribunal at Dhanbad. He is also working as auditor to Messrs. Shaw Wallace and Co. Ltd. He has also audited accounts of the Rewa Coal Fields Ltd. Therefore, he is not eligible for the membership of the Legislative Assembly as he is holding an office of Profit under the Government.

(Sd.) B. R. MANDAL,

R.O.

TRUE COPY.

(Sd) B. R. MANDLEKAR,

Advocate.

ANNEXURE B

Copy of Affidavit filed by Shri Kashiprasad Kanhyalal Verma of Chandameta P.O. Parasia tahsil and district Chhinawara in the Court of the Returning Officer for Parasia M.P.L.A. constituency in connection with the Scrutiny of Nomination paper of Shri Shanti Saroop Sharma of Parasia.

समक्ष रिटर्निंग आफिसर मध्य प्रदेश,

विधान सभा निर्वाचनक्षेत्र, परासिया

हा० म० छिन्दवाड़ा

काशी प्रसाद कन्हैयालाल आयु २४ साल निवासी चांदामेटा त० बां
जिला छिन्दवाड़ा (उम्मीदवार) ।

मैं काशी प्रसाद कन्हैयालाल निम्न लिखित वक्तव्य सपथ पूर्वक देता हूँ।

(१) यह कि रीवां कोल फिल्ड्स कं० लिमिटेड में सरकार के २५ प्रतिशत से अधिक शेयर्स हैं।

(२) यह कि श्री० एस० एस० शर्मा मेसर्स सावालिस कम्पनी लिमिटेड की ओर से सेंट्रल गवर्नमेंट इन्डस्ट्रियल ट्रिब्यूनल धनबाद के समक्ष प्रतिनिधि एवं आडिटर की हैसियत से सावालिस कं० लि० की पेंसी करते हैं।

(३) यह कि मेसर्स सावालिस कम्पनी लिमिटेड, रीवां कोल फिल्ड लिमिटेड की मैनेजिंग एजेंट हैं।

(४) यह कि रीवां कोल फिल्ड्स लिमिटेड के सम्बंध में श्री एस० एस० शर्मा ने कन्सोलिडेशन आफिसर सेंट्रल व्यवहारवांग जबल को रीवां कोल फिल्ड्स लिमिटेड के मालिकों की ओर से पत्र व्यवहार किया है जिन पर श्री० एस० एस० शर्मा के हस्ताक्षर हैं।

इस्ना० काशी प्रसाद कन्हैयालाल

मैं काशी प्रसाद कन्हैयालाल तसदीक करता हूँ कि उपरोक्त शपथ पत्र की कॉडिका १ से २ एक से तीन स्वज्ञान से यथा क्र० ४ दूसरों के बताने पर विश्वास करके सही वां दुरुस्त हैं। इसलिये स्थान छिन्दवाड़ा में दिनांक १-२-५७ को हस्ताक्षर किया।

हस्ता० काशी प्रसाद कन्हैयालाल

१-२-५७

TRUE COPY.

ANNEXURE 'B'

Copy of Affidavit filed by Shri Kashiprasad Kanhyalal Verma of Chandameta, P.O. Parasia, Tahsil and District Chhindwara in the Court of the Returning Officer for Parasia M.P.L.A. constituency in connection with the scrutiny of Nomination paper of Shri Shanti Saroop Sharma of Parasia.

"(i) That there are more than 25 per cent shares of the Government in the Rewa Coal Fields Co. Ltd.,

(ii) That Shri S. S. Sharma is conducting the proceedings before the Central Government Industrial Tribunal Dhanbad as representative i.e. Auditor on behalf of Messrs. Shaw Wallace Co. Ltd.

(iii) That Shaw Wallace Co. Ltd. are the Managing Agents of Rewa Coal Field Ltd.

(iv) That Shri S. S. Sharma has made correspondence with Conciliation Officer Central Department, Jubbulpore, on behalf of the proprietors of Rewa Coal Field Ltd. regarding Rewa Coal Field Ltd."

The verification regarding paras 1 to 3 is on personal knowledge and that of para 4 in the affidavit is on information received and believed to be true. Signed and verified this day at Chhindwara on 1st February, 1957.

1st February, 1957.

(Sd.) KASHIPRASAD KANHYALAL,

ANNEXURE C

Copy of Statement of Shri Shanti Saroop Sharma, a candidate from the Parasia Legislative Assembly constituency recorded on 1st February, 1957 by Returning Officer for Parasia M.P.L.A. constituency in connection with the scrutiny of Nomination paper of Shri Shanti Saroop Sharma of Parasia.

On S.A.

I am employed by Messrs. Pench Valley Coal Co. Ltd. under the Managing Agents of Messrs. Shaw Wallace and Co. Ltd. I hold no office of the profit with Messrs. Rewa Coal Fields Ltd. The Chief Mining Engineer of Messrs. Shaw Wallace and Co. Ltd. runs the administration of Messrs. Pench Valley Coal Co. Ltd., and the Rewa Coal Fields Ltd. I had occasion to represent Messrs. Shaw Wallace and Co. Ltd. under their instructions in several Tribunal cases, but I am paid only by Messrs. Pench Valley Coal Co. Ltd.

(Sd.) B. R. MANDAL,

R.O.

TRUE COPY

(Sd.) B. R. MANDLEKAR.

Advocate.

Dated 27th March, 1957.

ANNEXURE D

Copy of Order dated 1st February, 1957 passed by the Returning Officer (Deputy Commissioner) Chhindwara on nomination paper filed by Shri S. S. Sharma of Parasia.

An objection has been raised by Shri G. P. Shrivastava, pleader, a candidate from the Parasia Legislative Assembly constituency against the candidature of Shri S. S. Sharma, a rival candidate from the same constituency on the ground that Shri Sharma's candidature should be held invalid under S.7(e) of the Representation of the People's Act 1951 as amended in 1956. The main points of Shri Shrivastava's objections are that Messrs. Shaw Wallace Co. Ltd. are the managing Agents of three different Cos. viz., the Pench Valley Coal Co. Ltd., the Amalgamated Coal Fields Ltd. and the Rewa Coal Fields Ltd. In the Rewa Coal Fields Ltd. the State Government owns, according to Shri Shrivastava, more than 25 per cent shares. Secondly Shri Sharma is an employee of the Shaw Wallace Co. Ltd. and he has represented Shaw Wallace Co. Ltd. before the Government of India Industrial Tribunal at Dhanbad, and as auditor of the Shaw Wallace Co. Ltd., he has audited accounts for the Rewa Coal Fields Ltd. Therefore, he is not eligible for the membership of the Legislative Assembly seat as he is holding office of profit under the Government.

2. In reply Shri Sharma has stated that he is employed by Messrs. Pench Valley Coal Co. Ltd. under the managing agency of Messrs. Shaw Wallace Co. Ltd. He has admitted that he has represented the Shaw Wallace Co. Ltd. in several industrial tribunal cases, but he is paid only by Messrs. Pench Valley Coal Ltd. and not by the Rewa Coal Fields Ltd.

3. It is undisputed that the Shaw Wallace and Co. Ltd. being the managing agents of the Rewa Coal Fields Ltd. have a vital financial interest in the affairs of that Co. Though Shri Sharma is technically employed by the Pench Valley Coal Co. Ltd. and the Amalgamated Coal Fields Ltd. these two companies being under the Managing Agency of Shaw Wallace Co. Ltd., the last named Co. not only has vital financial interests in these two companies, but is in a position to control all their policies. Shri Sharma has admitted that he has represented Shaw Wallace Co. Ltd. before Industrial Tribunals in respect of all the three subordinate Cos. mentioned above. Had Shri Sharma confined his activities only to the Pench Valley Coal Co. Ltd., it would have been a debatable point whether his post is an office of profit but under the order of the Shaw Wallace Co. Ltd. which holds financial interest in the Rewa Coal Fields Ltd., he has audited the accounts of the last named Co. as well and he has also represented the employers of this Co. before the Industrial Tribunal as stated in the affidavit of Shri Kashiprasad Verma. In view of this the office of Shri Sharma is one to which some power or patronage is attached as far as the Rewa Coal Fields Ltd. are concerned. Being their auditor, he exercises executive functions and holds an office of dignity or honour in respect of that Co. which is confirmed by the very fact that he has represented the employers of the Rewa Coal fields Ltd. before the Industrial Tribunal. In view of this I have no other alternative but to declare Shri Sharma as a person who is holding office of profit under the Government and as such his nomination paper is declared invalid.

(Sd.) B. R. MANDAL,

Returning Officer,

Chindwara, M.P.L.A. Parasia,

(Deputy Commissioner CWA)

Dated 1st February, 1957.

True Copy

(Sd.) B. R. MANDLEKAR.

Advocate.

Dated 27th March, 1957.

To

Election Commission

India, (New Delhi).

Petitioner—

Shri Lekhram s/o Dadoolal aged about 46 years of Mouza Dongar-Parasia P.C. No. 70 R.I.C. Parasia tahsil and district Chindwara.

Respondents—

Shri Bhikulal s/o Lakhmi Chand Chandak aged about 48 years Cultivation, of Paradsinga, tahsil, Saunsar, district Chindwara and others.

I, Shri Lekhram s/o Dadoolal of Mouza Dongar-Parasia tahsil and district Chindwara, do take oath and state as under:—

1. That I am filing an election petition as provided in sections 80 and 81 of Representation of People Act, 1951, for setting aside the election of Respondent No. 1, declared elected as Member of House of People from Chindwara Parliamentary Constituency on date 25th March 1957, polling having commenced from 25th February 1957.

2. The election has been challenged on several grounds and the ground ensuring success of the petition is the one relating to the improper rejection of nomination paper of Shanti Swaroop Sharma, who had been representing Parasia Legislative Assembly Constituency for year 1951-52 to 1956-57, being elected on "Two-Bullocks with Yoke-on" symbol. The nomination paper of Shri Sharma was originally accepted as valid and later after a couple of hours declared invalid because of his nomination paper being rejected in Assembly Constituency; this the Returning Officer had no jurisdiction to do.

3. In the Assembly scrutiny of Parasia Constituency, the nomination paper of Shri Sharma was rejected on the ground of objection raised by Shri Guruprasad supported by affidavit of Shri Kashiprasad Verma, to the effect that Shri Sharma was holding an office of profit under the Company in the capital of which the appropriate Government has not less than 25 P.C. share. This allegation purported to relate to Shaw Wallace Company Ltd. and indirectly to Rewa Coal Fields Ltd. Shri Sharma was not an employee of any Company in which the Central Government had capital much less of 25 P.C. share capital and in fact no objection with regard to capital being of Central Government was made at the time of scrutiny, even for Assembly seat.

4. The order of rejection of nomination paper is patently illegal and election of Respondent No. 1 is liable to be set aside along with Respondent Narayanrao Wadiwa who is declared elected for Schedule tribe parliamentary seat for the same constituency of Respondent No. 1.

5. However as a result of declaration of result of election, the name of Respondent No. 1 will be published under section 73 of R.P. Act in the official Gazette of Central Government, which is the appropriate authority for publishing the result of election of Respondent No. 1. It is necessary that the publication of name of Respondent No. 1 is stopped by issue of temporary injunction. It is equally necessary that Respondent No. 1 is prohibited from functioning as member of House of People till the disposal of Election Petition. Unless this is done, an intruder who is not entitled to function will have participated in the proceedings of House of People and would have drawn salary and other concessions of travel on free pass etc., which status he would not be ultimately entitled to be clothed by virtue of declarations made by Returning Officer on 25th March, 1957. The balance of convenience is on the side of the Petitioner.

Dated 26th March, 1957.

(Sd.) x x x

I, Lekhram Dadoolal of Mouza Dongar-Parasia do hereby state that the allegations in paras 1 to 5 are true to my personal knowledge. Signed and verified this day at Nagpur on 26th March, 1957.

(Sd.) x x x

To

Election Commission
India, (New Delhi).

Petitioner—

Shri Lekhram s/o Dadoolal aged about 46 years of Mouza Dongar-Parasia P.C. No. 70 R.I.C. 70 R.I.C. Parasia tahsil and district Chindwara.

Respondent—

Shri Bhikulal s/o Lakhmi Chand Chandak aged about 48 years Cultivation, of Parasinga tahsil Saunsar district Chindwara and others.

Application for grant of temporary injunction prohibiting publication of name of Respondent No. 1 in the Gazette and prohibiting him from functioning as elected representative.

The Petitioner begs to apply as under:—

1. That he is filing an election petition as provided in sections 80 and 81 of Representation of People Act, 1951 for setting aside the election of Respondent No. 1, declared elected on 5th March, 1957.

2. The election has been challenged on several grounds and the ground ensuring success of the petition is the one relating to the improper rejection of nomination paper of Shri Shanti Swaroop Sharma, who had been representing the Parasia Legislative Assembly Constituency for years 1951-52 to 1956-57, being elected on "Two Bullocks with Yoke on" symbol. The nomination paper of Shri Sharma has been rejected on the objection of Shri Guruprasad supported by the affidavit of Shri Kashiprasad Verma, to the effect that Shri Sharma was holding an office of profit under the Company in the capital of which the appropriate Government has not less than 25 per cent share. This allegation purported to relate to Shaw Wallace Company Ltd. and indirectly to Rewa Coal Fields Ltd. Shri Sharma was not an employee of any Company in which any State Government or Central Government, much less Madhya Pradesh Government had a capital much less of 25 per cent share capital.

3. The order of rejection of nomination paper is patently illegal and election of Respondent No. 1 is liable to be set aside.

4. However as a result of declaration of result of election, the name of Respondent No. 1 will be published under section 73 of R.P. Act in the Gazette by Appropriate Government. It is necessary that the publication of the name of Respondent No. 1 is stopped by issue of temporary injunction. It is equally necessary that Respondent No. 1 is prohibited from functioning as a Member till the disposal of Election Petition. Unless this is done, an intruder who is not entitled to function will have participated in the proceedings of Legislature and would have drawn illegally the salary of a member, which status he would ultimately not be entitled to be clothed with by virtue of declarations made by Returning Officer. The balance of convenience is on the side of the Petitioner.

5. The necessary affidavit is filed herewith.

It is therefore prayed that the appropriate Government be prohibited from publishing the name of Respondent No. 1 under section 73 of the R.P. Act 1951, as duly elected member and that Respondent No. 1 be prohibited from functioning as a member till the disposal of Election Petition.

Dated 27th March, 1957.

(Sd.)

Counsel for Petitioner.

(Sd.) x x x

Petitioner.

[No. 82/5/57.]

By order,

DIN DAYAL, Under Secy.

